

The Honorable James L. Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CAROLINE ANGULO, a single person, ERIC  
KELLER, a single person, ISABEL LINDSEY  
and CHARLES LINDSEY, a married couple,  
and CHRISTINE BASH, individually and as a  
personal representative of the ESTATE OF  
STEVEN BASH,

Plaintiffs,

v.

PROVIDENCE HEALTH & SERVICES –  
WASHINGTON, a non-profit Washington  
corporation, also d/b/a PROVIDENCE ST.  
MARY MEDICAL CENTER; DR. JASON A.  
DREYER, D.O., and JANE DOE DREYER,  
husband and wife and the marital community  
thereof; DR. DANIEL ELSKENS, D.O., and  
JANE DOE ELSKENS, husband and wife and  
the marital community thereof; and JOHN/JANE  
DOES 1-10, and any martial communities  
thereof,

Defendants.

No. 2:22-cv-00915-JLR

DECLARATION OF  
SHANDARESE GARR  
CONSTITUTING  
JURISDICTIONAL DISCOVERY  
REPORT OF JND

1 I, Shandarese Garr, declare as follows:

2 1. I am a Vice President of Operations at JND Legal Administration (“JND”). JND  
3 has extensive experience with all aspects of legal administration and the administration of legal  
4 notice programs, including those with hospitals and health systems pursuant to business associate  
5 agreements. In my role, I am responsible for, among other things, overseeing the creation and  
6 implementation of legal notice programs that effectively reach individuals, inform them about  
7 their legal rights and options, and allow them time to easily respond. I make this declaration  
8 based on personal knowledge or information provided to me by individuals working at my  
9 direction and can testify to the same.

10 2. I make this declaration pursuant to the parties’ Joint Status Report Regarding  
11 Jurisdictional Discovery (“Joint Status Report”), which provides that “JND will prepare a  
12 declaration, which Providence will file with the Court, describing JND’s work administering the  
13 jurisdictional discovery program and summarizing the residency and citizenship information  
14 compiled for the Providence and MultiCare patients from information forms JND receives.”  
15 Dkt. 110 at 3.

16 3. As ordered by this Court, JND is serving as the third-party jurisdictional  
17 discovery program administrator in the above-captioned matter to issue notice and collect and  
18 report patient data while protecting the Protected Health Information (“PHI”) of the potential  
19 class member patients at issue. Dkt. 103 at 7-10. Providence and MultiCare engaged and  
20 executed business associate agreements with JND, enabling Providence and MultiCare to share  
21 identifying information about their respective potential class member patients with JND to  
22 facilitate mailing the Court-approved notices and information forms to these patients as part of  
23 the jurisdictional discovery program. *Id.* at 9.

24 4. JND received from both Providence and MultiCare lists of their respective  
25 potential class member patients and what JND understands were those patients’ last-known  
26 addresses from Providence’s and MultiCare’s records. JND ran those names and addresses  
27

1 through the United States Postal Service's National Change of Address database to identify  
2 current addresses for those patients.

3 5. On August 25, 2023, JND mailed Providence and MultiCare patient-specific  
4 notices (in the forms of Exhibits A and B to the parties' and MultiCare's Joint Status Report,  
5 Dkt. 110) to 1,748 Providence patients and 475 MultiCare patients. JND mailed two additional  
6 notices to Providence patients whose potential last-known addresses Providence was  
7 subsequently able to identify.

8 6. As part of this mailing, JND identified seven potential class member patients who  
9 underwent surgeries at both Providence and MultiCare who were mailed both the Providence and  
10 MultiCare patient-specific notices given that they are members of potentially multiple patient  
11 classes.

12 7. JND created the email address, info@spinesurgerydiscovery.com, where patients  
13 could return copies of their information forms and a web portal at spinesurgerydiscovery.com,  
14 where patients could provide the information requested in the notice forms. Both the email  
15 address and web portal went live on August 25, 2023, in conjunction with the mailing of notices  
16 and information forms.

17 8. To process the information returned by patients and complete jurisdictional  
18 discovery by the October 20, 2023 deadline set by the Court, JND set a September 29, 2023  
19 deadline for patients to return their information forms or provide the requested information  
20 through the web portal. Patients accordingly had five weeks from the initial mailing date to  
21 return/provide their requested state residency and citizenship information.

22 9. 186 of the Providence mailings and 35 of the MultiCare mailings were returned as  
23 undeliverable. This represented 10.6 percent of the mailings to the Providence patients and 7.4  
24 percent of the mailings to the MultiCare patients. In notice programs like this, the quantity of  
25 undeliverable notices can be considered typical. Of the undeliverable mailings, the United States  
26 Postal Service provided forwarding addresses for 1 of the returned Providence mailings and 1 of  
27

1 the returned MultiCare mailings, to which addresses JND remailed the notices and information  
2 forms.

3 10. JND was able to conduct skip tracing on 67 of the returned notices and located  
4 updated addresses for 27, to which addresses JND remailed notices and information forms. JND  
5 remailed these notices and information forms on September 12, 2023.

6 11. JND received a total of 595 returned information forms, including 478 from  
7 Providence patients and 117 from MultiCare patients whom JND was able to confirm. This total  
8 includes information forms mailed or emailed to JND, as well as information submitted by  
9 patients through the web portal. This represents a response rate of 27.3 percent from the  
10 Providence and 24.6 percent from the MultiCare patients. In notice programs like this, the  
11 quantity of returned forms can be considered typical. Of the returned information forms, 4 were  
12 received after the September 29, 2023 response period closed but were nevertheless included in  
13 the following results if they were otherwise complete with a signed attestation and provided  
14 residence and citizenship information.

15 12. 4 of the total forms returned failed to contain a signed attestation of the  
16 correctness of the information provided and were therefore excluded from the state residency and  
17 citizenship results reported in Exhibits A (Valid Responses) & Exhibit B (Valid Responses plus  
18 results for additional, non-verified patients).

19 13. 42 of the total forms returned were missing residence and/or citizenship  
20 information and were therefore excluded from the results reported in Exhibits A & B.

21 14. Several of the forms were returned without a first page which would have  
22 identified the patient, but included a signed second page and provided residence and citizenship  
23 information. JND was able to confirm the patient's identity based on the patient signature, and  
24 these results were included in the results reported in Exhibit A.

25 15. 3 of the forms were returned without a first page with identifying patient  
26 information, but included a signed second page and provided residence and citizenship  
27 information. However, JND was unable to confirm the patient identity based on the patient

signature on these forms or otherwise. These results were excluded from the list of Valid Responses in Exhibit A, but are reported separately below in Exhibit B.

16. 106 of the forms returned were incomplete in some other respect (such as failing to identify Dr. Dreyer or Dr. Elskens as the surgeon at issue or failing to submit the last four digits of the patient's Social Security Number for verification purposes), but the forms were otherwise signed and provided requested residence and citizenship information. These results were included in Exhibit A as Valid Responses.

17. 10 of the forms were returned by individuals claiming to be family members of deceased potential class member patients. These results were excluded from the list of Valid Responses in Exhibit A for lack of sufficient information to be able to confirm such representations, but are reported separately below in Exhibit B.

18. Attached to this declaration as Exhibit A is a report of the states of residence and U.S. citizenship as of May 13, 2022, of the Providence and MultiCare patients who submitted Valid Responses.

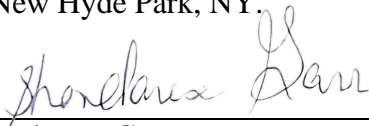
19. For the Providence patients, of the 429 Valid Responses, 202 were received from individuals reporting they were both a Washington resident and a U.S. citizen on May 13, 2022 and 227 were received from individuals reporting they either were not a Washington resident or were not a U.S. citizen on May 13, 2022.

20. For the MultiCare patients, of the 107 Valid Responses, 95 were received from individuals reporting they were both a Washington resident and a U.S. citizen on May 13, 2022 and 12 were received from individuals reporting they either were not a Washington resident or were not a U.S. citizen on May 13, 2022.

21. In addition, attached to this declaration as Exhibit B is a report of the states of residence and U.S. citizenship of the Valid Responses for the Providence and MultiCare patients, along with the information for patients who failed to return the first page of the information form and whose identities could not be determined by JND based on their signatures or otherwise, as well as submissions by claimed family members of deceased potential class members.

1 I declare under penalty of perjury that the foregoing is true and correct to the best of my  
2 knowledge and belief.

3 Executed this 19th day of October 2023, at New Hyde Park, NY.

4   
5 Shandarese Garr

**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I had the foregoing electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to registered counsel of record in this action. All other parties (if any) shall be served in accordance with the Federal Rules of Civil Procedure.

DATED: October 20, 2023

s/ Kenneth E. Payson  
Kenneth E. Payson, WSBA #26369

# EXHIBIT A



## Valid Providence Responses

State of Residence on May 13, 2022	U.S. Citizen on May 13, 2022		Grand Total
	No	Yes	
AK	0	1	1
AL	0	2	2
AZ	0	2	2
CO	0	1	1
FL	0	1	1
ID	0	4	4
OR	4	207	211
UT	0	1	1
WA	3	202	205
WY	0	1	1
Grand Total	7	422	429

## Valid MultiCare Responses

State of Residence on May 13, 2022	U.S. Citizen on May 13, 2022		Grand Total
	No	Yes	
ID	0	4	4
MT	0	3	3
OR	0	3	3
UT	0	1	1
VA	0	1	1
WA	0	95	95
Grand Total	0	107	107

# EXHIBIT B

## **Valid and Unconfirmed Providence Responses**

State of Residence on May 13, 2022	U.S. Citizen on May 13, 2022		Grand Total
	No	Yes	
AK	0	1	1
AL	0	2	2
AZ	0	2	2
CO	0	1	1
FL	0	1	1
ID	0	4	4
OR	4	214	218
UT	0	1	1
WA	3	205	208
WY	0	1	1
<b>Grand Total</b>	<b>7</b>	<b>432</b>	<b>439</b>

## **Valid and Unconfirmed MultiCare Responses**

State of Residence on May 13, 2022	U.S. Citizen on May 13, 2022		Grand Total
	No	Yes	
ID	0	4	4
MT	0	3	3
OR	0	3	3
UT	0	1	1
VA	0	1	1
WA	0	98	98
<b>Grand Total</b>	<b>0</b>	<b>110</b>	<b>110</b>